



CITY OF COLORADO SPRINGS
FIRE BOARD OF APPEALS MEETING **MINUTES**
PIKES PEAK REGIONAL BUILDING DEPARTMENT
2880 INTERNATIONAL CIRCLE
January 11, 2019 – 8:30 A.M. to 10:00 A.M.

Present Fire Board of Appeals Members (5):

Vince Colarelli
Dean Doiron, Vice Chair (Departing)
David Helmer
John Putnam
Christine Riggs, Vice Chair (Incumbent)
Roger Wallace, Chair

Not Present Fire Board of Appeals Member

Vacant:

-

Industry Represented:

Construction
Citizen at Large
Large Business
Insurance
Architecture
Fire Suppression

Industry Represented:

Small Business

Present Fire Board of Appeals Secretary

Brett Lacey, Fire Marshal

Representing:

Colorado Springs Fire Department

Participatory Attendee(s):

Frederick Stein, Attorney
Rebecca Mulder, Communications Coordinator
Katha Snow, Compliance Coordinator
Dee Withee, Fire Protection Engineer
Frances Zabinski, Co-Home Owner
Jan Zabinski, Co-Home Owner

Representing:

City of Colorado Springs
Pikes Peak Regional Building Department
Colorado Springs Fire Department
Colorado Springs Fire Department
1622 Cheyenne Boulevard
1622 Cheyenne Boulevard

CALL TO ORDER

Chair Roger Wallace called the meeting to order at 8:39 a.m.

ADMINISTRATIVE

1. Review December 14, 2018's Fire Board of Appeals (FBA) Meeting Minutes

- A. FBA Board Member (Board Member) Colarelli, "Motion to approve," seconded by Vice Chair Doiron. Chair Wallace abstained due to lack of attendance during December 14, 2018's meeting.**

Motion passed with a vote of 5-0-1-0

Aye: 5 – Colarelli, Doiron, Helmer, Putnam, and Riggs
Nay: 0 – None
Abstain: 1 – Wallace
Absent: 0 – None

2. Annual Election of Chair and Vice Chair

- A. Board Member Colarelli, "I'd like to propose Roger as chair and Dean as vice chair," seconded by Board Member Helmer. Vice Chair Doiron interjected and withdrew the vice chair nomination. Vice Chair Doiron will not seek an additional term on FBA.**

**Board Member Colarelli, “I would like to move to recommend Roger as chair and Christy as vice chair.” Motion seconded by Board Member Putnam. Chair Wallace abstained from voting.
Motion passed with a vote of 5-0-1-0**

Aye: 5 – Colarelli, Doiron, Helmer, Putnam, and Riggs
Nay: 0 – None
Abstain: 1 – Wallace
Absent: 0 – None

3. Annual Designation of Meeting Notification Posting Location

- A.** Attorney Stein explained, pursuant to Colorado Open Meeting Law 24.6.402 C.R.S, during the body’s first public meeting the board must designate where meeting notifications are posted.

**Board Member Putnam, “I’ll move that we accept the meeting notification sites of the City (City of Colorado Springs) website and just outside the City Clerk’s Office to announce the meetings for the year 2019.” Motion seconded by Vice Chair Riggs.
Motion passed with a vote of 6-0-0-0**

Aye: 6 – Colarelli, Doiron, Helmer, Putnam, Riggs, and Wallace
Nay: 0 – None
Abstain: 0 – None
Absent: 0 – None

4. Contractor Licensing

A. Fire Alarm Contractor (FAC) A

- i. Business Name:** Red Rocks Fire Prevention, Inc.
Owners: Brian Kakac, Owner
John Kakac, Owner
Licensee: Brian Kakac
RME: Brian L. Kakac

FM Lacey reported that the applicant meets Pikes Peak Regional Building Code’s FAC A licensing requirements. FM Lacey recommended approval.

**Vice Chair Riggs, “Make a motion we approve.” Motion seconded by Board Member Colarelli.
Motion passed with a vote of 6-0-0-0**

Aye: 6 – Colarelli, Doiron, Helmer, Putnam, Riggs, and Wallace
Nay: 0 – None
Abstain: 0 – None
Absent: 0 – None

B. Fire Alarm Contractor (FSC) A

- i. Business Name:** Mountain States Fire Protection, Inc.
Owner: James M. Kyle
Licensee: James M. Kyle
RME: Marvin E. Heath

FM Lacey reported that the applicant meets Pikes Peak Regional Building Code's FSC A licensing requirements. FM Lacey recommended approval.

Board Member Doiron, "Motion we approve." Motion seconded by Board Member Helmer.

Motion passed with a vote of 6-0-0-0

Aye: 6 – Colarelli, Doiron, Helmer, Putnam, Riggs, and Wallace
Nay: 0 – None
Abstain: 0 – None
Absent: 0 – None

5. Appeal

- A. Request by Jan Zabinski, on behalf of Jan and Frances Zabinski, for relief of Colorado Springs' Fire Prevention Code and Standards, Appendix K Wildland Urban Interface Mitigation Requirements for the Hillside Overlay Zone.
Location: 1622 Cheyenne Boulevard, Colorado Springs, Colorado**

Presenter:
Fire Marshal Lacey

FM Lacey presented the appeal as a request by Jan Zabinski, on behalf of Jan and Frances Zabinski, for relief of Colorado Springs' Fire Prevention Code and Standards, Appendix K Wildland Urban Interface Mitigation Requirements for the Hillside Overlay. The location is 1622 Cheyenne Boulevard, Colorado Springs, Colorado.

Fire Protection Engineer (FPE) Withee explained that 1622 Cheyenne Boulevard's homeowner, Jan Zabinski, contracted a builder to build the house with the understanding that Mr. Zabinski would assemble the deck; however, Mr. Zabinski and the contracted builder had a miscommunication. Per FPE Withee, "He (Mr. Zabinski) didn't get the communication on ignition resistant materials and laid down a cedar deck." Mr. Zabinski brought forth the error and a solution before any inspections or prompts by Colorado Springs Fire Department (CSFD). Mr. Zabinski's solution is to apply Lumber Guard XT (FX Lumber Guard XT).

FPE Withee described FX Lumber Guard XT as an exterior rated fire retardant coating for raw lumber and thinks a copy of the product's data sheet was included in the agenda packet. (Page 28 of the agenda packet.) The data sheet maintains that retreatment is not requirement. FPE Withee further explained, the product soaks into the lumber and changes its molecular structure.

FPE Withee presented Board Members with a supplemental document, (Lumber Guard Exterior's page 3 of 6 obtained from <https://frctexas.com/lumber-guard-xt/>). Per FPE Withee the report states, "No retreatment is required unless there is heavy traffic, such as decking or a porch or something."

FPE Withee explained that a recommendation for resolution contained within the appeal's staff summary requires the structure's lumber be retreated with FX Lumber Guard XT every three years. The requirement was established to maintain the product's fire retardant ability.

FPE Withee presented Board Members with two additional documents and explained one is a close-up photo of a portion of the assembled deck (not titled), and the other is

a copy of an email dated December 28, 2018, from Mr. Zabinski to FPE Withee, stating the cedar deck's size is 8 feet by 16 feet, 8 inches, it contains 15 stairs, and the landing is 4 feet by 4 feet.

Board Member Colarelli asked if CSFD staff would require all four sides of the cedar lumber be treated.

FPE Withee replied that treating the lumber would be difficult because the lumber is already laid. Board Member Colarelli reiterated that the question was if CSFD would require all four sides of the lumber be treated. FPE Withee answered that it would be helpful to treat the deck's underside but to require Mr. Zabinski to disassemble the decking, apply the product to all four sides of its lumber, and then reassemble the structure may be difficult.

Board Member Colarelli asked if the decking's underside and its top-side have similar fire exposures. FPE Withee replied that some of the decking issues (specific to the Waldo Canyon fire) were the result of embers landing on top of decks; therefore, the underside of decks do not require treatment.

Chair Wallace asked if the decking is used "for walking out." FPE Withee believes it is and directed Board Members to the photo on page 50 of the agenda packet.

Board Member Doiron sought confirmation that the homeowner would be required to retreat the lumber every three years and that the property's deed would contain the three-year requirement. FPE Withee confirmed this.

Board Member Colarelli sought clarification from FPE Withee when expressing if the manufacturer maintains retreatment is not required, why is CSFD requiring or stipulating retreatment occur every three years? Why not encourage retreatment? Board Member Colarelli stated that a requirement to maintain the lumber every three years beyond the transfer of title would be difficult, if not impractical to enforce. Board Member Colarelli accepts the recommendation of retreating every three years, but questions whether requiring retreating is a practical stipulation that most likely is not enforceable.

FPE Withee explained that some additional conditions listed in the appeal's staff summary are issuing a free three-year permit, which will prompt an inspection; and a letter, certifying when reapplication occurred, is sent to CSFD. These conditions are to manage and monitor an approved variance.

Board Member Colarelli asked if the homeowner produced a letter from the product's manufacturer stating the change in chemical composition is permanent and that one treatment to the lumber is sufficient, would CSFD staff support eliminating the three-year retreatment requirement?

FM Lacey stated some of the information presented by FPE Withee is different than what was reviewed during CSFD's appeal item review meeting. In accord with Board Member Colarelli's previous statements, FM Lacey supports treating the lumber's underside, including its planks. FM Lacey agrees with FPE Withee's rationale to treat the top of the deck is because the deposition of embers is likely to occur on a deck's surface; however, another viable threat to a deck happens when embers land on and catch fire to items, such as debris and furniture, located below.

FM Lacey explained that the initial product documentation provided for review was incomplete. Based on the current information provided and presented by FPE Withee, if the manufacturer maintains initial application of the product is permanent, and retreatment is not necessary, the previously mentioned condition of issuing a free permit every three years is not needed.

Mr. Zabinski of 1622 Cheyenne Boulevard explained that the area referenced as a deck is a balcony and applying the product to the balcony's underside would be easy.

Mr. Zabinski explained that FX LumberGuard XT's product description was submitted with appeal's paperwork. (Page 27 of the agenda packet.) Mr. Zabinski quoted from the description, "The fire retardancy of treated wood, lumber or plywood will need to be re-treated 3-5 years unless it's painted or overcoated with a sealer." Mr. Zabinski stated that within the application it was proposed that the deck be painted with a water based paint; doing so will seal the flame retardant and address some of the issues of recoating and further inspections.

FPE Withee described talking with David, a representative of the product's manufacturer, Fire Retardant Coatings of Texas. David directed FPE Withee to a more recent product description available on the internet containing the information provided in the supplemental document (page 50 of the agenda packet). FPE Withee explained that David states there is no requirement for retreatment to cedar lumber, but, if the desire is to preserve the wood's life, applying a non-wax sealant is recommended.

Chair Wallace asked if spraying the underside of the deck is a requirement, will the homeowner also be expected to spray the bottom of the currently unexposed 2 feet by 12 feet structure that holds the deck and also covers a portion of the deck's underside. Chair Wallace commented that completing the task requires disassembling a portion of the deck. FPE Withee recommends obtaining a letter from the manufacturer stating one application of the product is sufficient. FPE Withee said the homeowner could probably leave the decking in place and spray its underside, topside, and all exposed areas.

Board Member Doiron requested clarification when asking if there would not be a requirement to follow-up every three years. FPE Withee explained that it is appropriate to eliminate the three-year permit requirement if a letter from the manufacturer is received.

Chair Wallace recommended either tabling the appeal or making a motion based on the need for additional information.

Attorney Stein explained postponement could occur; however, the board must specify and honor a postponement date.

FM Lacey explained the consensus is an application of the product is necessary, and retreatment requirements are not known. FM Lacey proposed the following: the applicant or FPE Withee's office obtain a letter from the manufacturer detailing all retreatment requirements, CSFD administratively manage information received from the manufacturer and report back all findings to FBA during February's meeting, and a motion is made that supports treating the decking materials. FM Lacey stated these recommendations eliminate the need for tabling the appeal.

Mr. Zabinski provided the home built at 1622 Cheyenne Boulevard has a mobile accessibility design and that Mr. and Mrs. Zabinski's current living conditions do not. A decision that will eliminate all further delay of occupancy and hardships is encouraged.

Board Member Putnam, "I would make a motion that we accept the fire department's recommendations and the applicant's agreement to coat, with this FX LumberGuard XT material, top and bottom, onetime basis, and that the fire department, working with the applicant, then administratively deal with whether or not this is a onetime application or a multiple time application. The fire department will report back to us in a future meeting." Motion seconded by Board Member Helmer.

Motion passed with a vote of 6-0-0-0

Aye:	6 – Colarelli, Doiron, Helmer, Putnam, Riggs, and Wallace
Nay:	0 – None
Abstain:	0 – None
Absent:	0 – None

Individual votes were substantiated by each member.

DISCUSSION ITEMS

1. New Business

A. Fire Board of Appeals Terms

Presenter:
Brett Lacey, Fire Marshal

Fire Marshal Lacey detailed that Vice Chair Riggs' and Board Member Doiron's terms expire in April.

Board Member Doiron stated he will not seek reappointment but will serve at the pleasure of the board until a replacement is found.

FM Lacey reminded members of FBA that Colorado Springs City Council (Council) approved an ordinance amending its Boards and Commissions' code language. New to FBA are term limits; no member may serve two consecutive terms. However, the change will only go into effect once a member's current term expires.

Attorney Stein, explained that the ordinance does not state that the contents are retroactive. Attorney Stein provided the following example: Board Member Putnam received reappointment by Council after the ordinance was approved. Meaning, once Board Member Putnam serves this current term, he may choose to seek and be reappointed to serve a consecutive term. Board Member Putnam will be term-limited once this second term expires. A former member may seek appointment to the same board or commission after being term-limited for an undisclosed amount of time.

Chair Wallace confirmed with Attorney Stein that because he recently received notice that reappointment for another term was approved by Council this and another term may be completed. Attorney Stein said Chair Wallace is correct.

1. Follow-Up Business

(Items A and B were presented inversely, B and then A.)

A. Boards and Commissions Discussion

Presenter:

Brett Lacey, Fire Marshal

FM Lacey explained, due to the approved Boards and Commissions ordinance, additional changes to FBA' code language and FBA' rules of procedures are necessary. FM Lacey supplied members with the following documents: Drafted Changes to Article 3 (Fire Board of Appeals) of Chapter 8 (Public Safety), dated January 10, 2019; Colorado Springs' current Article 3 Fire Board of Appeals printed January 10, 2019; a draft of City of Colorado Springs Rules and Procedures of Fire Board of Appeals; and the current Rules of Procedure of the Fire Board of Appeals of the City of Colorado Springs. FM Lacey encouraged board members to review the proposed drafts and reference the documents containing current information if needed.

FM Lacey seeks Board Members support to submit formal drafts of the documents to Attorney Stein and his office for review, edit, and final drafts, which are for presentation to City Council. These final documents will be brought before FBA for informational purposes during February 2019's meeting. Attorney Stein explained that the document containing code language would be in ordinance form; bold font will indicate change, struck through font will indicate removal.

Chair Wallace asked if FBA' secretary is responsible for filing the required annual report to City Council. FM Lacey confirmed that the secretary is responsible for meeting the requirement and explained that CSFD is currently seeking clarification and all details of the annual reporting processes from City Council and the City Clerk's Office.

FM Lacey communicated that the Boards and Commissions ordinance specifies residency requirements. The ordinance states all boards and commissions members must reside within Colorado Springs. The proposed code language draft states members shall be a resident of or maintain a business in Colorado Springs. The draft also stipulates the chair and vice chair shall be residents of Colorado Springs. These changes demonstrate the will to comply with the overarching Boards and Commissions ordinance. Attorney Stein may not support the changes as written; however, Attorney Stein is willing to study the changes and discuss the outcome during February's meeting.

Board Member Doiron asked what defines a resident of Colorado Springs. Attorney Stein stated details of the definition will provide during February's meeting.

Board Member Putnam asked if the drafted code language's Indemnification section replaces the existing code's Liability of the Board section. Fire Prevention Compliance Coordinator Katha Snow reported that parts of the new code language mirrors Boards and Commissions'. The new Boards and Commissions ordinance does not contain a liability section, but does contain a section on indemnification. Attorney Stein offered to research whether the indemnification language, as written, is the correct language and will provide the findings during February's meeting.

Chair Wallace suggested that the new real estate agent or broker position is required to maintain membership of an association within Colorado Springs. The intent is that the agent or broker provide the knowledge gained while on the board to association members. FM Lacey recognizes the value in sharing information and encourages all members to do so. Attorney Stein discourages codifying the requirement because it

would apply to all members. FM Lacey promotes an annual reminder from the chair to members reiterating the importance of fostering communication of the highest degree possible to all professional communities.

All FBA members expressed zero issues with both documents moving forward. Board members understand: Fire Marshal Lacey and Attorney Stein will continue to address concerns, no substantive changes to the documents are expected, Attorney Stein will provide updates on all outstanding items during February's meeting, and each document will be listed as action items and voted on during a future FBA meeting.

B. Contractor Licensing Update

Presenter:

Rebecca Mulder, Communications Coordinator, Pikes Peak Regional Building Department (PPRBD)

Ms. Mulder reminded board members that during December 2018's FBA meeting Board Member Colarelli requested PPRBD's fire contractor licensing statistics. Mrs. Mulder reported the following information specific to PPRBD and 2018:

Type of Fire Contractor License	License Holders in 2018	Expired in 2018	Revoked in 2018
Fire Alarm A	95	10	5
Fire Alarm B	No data provided	3	1
Fire Suppression A	52	6	4
Fire Suppression B	26	2	1
Fire Suppression C	12	2	1
Fire Suppression H	13	0	0

Ms. Mulder explained that all contractor licensing information is available on PPRBD's website and that this information will be provided to board members annually. Also explained was, once a license expires the license holder has 180 days to pay the fee and resume appropriate duties. A license expired for 181 days or more is administratively revoked.

ADJOURN

Motion to adjourn made by Board Member Putnam, seconded by Board Member Helmer.

Motion passed with a vote of 6-0-0-0

Aye: 6 – Colarelli, Doiron, Helmer, Putnam, Riggs, and Wallace

Nay: 0 – None

Abstain: 0 – None

Absent: 0 – None

Meeting adjourned at 9:35 a.m.

Respectfully submitted by,


Brett T. Lacey
Fire Marshal

Draft of Changes to Article 3 (Fire Board of Appeals) of Chapter 8 (Public Safety) **(January 10, 2019)**

8.3.101: BOARD CREATED; COMPOSITION:

A Board, to be known as Fire Board of Appeals and referred to throughout this chapter as Fire Board, is hereby established.

Fire Board shall consist of nine (9) Council-appointed members. Each member shall be a resident of or maintain a business within the City of Colorado Springs. Fire Board shall be composed of one (1) architect; one (1) building contractor A or B; one (1) citizen at-large; one (1) commercial real estate agent or broker or one (1) commercial business property manager; one (1) fire alarm contractor A or B; one (1) fire suppression contractor A or B; one (1) fire and casualty insurance agent or broker; one (1) large business representative; and one (1) small business representative. (A large business shall be equivalent to fifty-one (51) or more employees and a small business shall be equivalent to fifty (50) or less employees.)

Fire Board shall elect a chair and a vice chair annually. The chair and the vice chair shall be residents of the City of Colorado Springs.

Fire Board member terms shall be for a period of three (3) years unless Council specifically determines that a different term is desired by reason of special circumstances. Fire Board members seeking additional three (3) year terms shall require a majority vote in favor of re-appointment by Fire Board; a recommendation for reappointment to Council, on behalf of Fire Board, by the Fire Board Chair; and re-appointed by Council.

Fire Board members whose terms have expired may retain their designated position on Fire Board until Council rules in favor of re-appointment or fills the vacancy.

The Fire Marshal shall act as secretary ex officio.

8.3.102: AUTHORITY OF FIRE BOARD:

Fire Board shall have the authority to make and adopt supplemental rules and regulations as may be necessary to accomplish the purpose and objective of this chapter.

Fire Board may make reasonable interpretations of the provision of this chapter to grant variances to the Fire Prevention Code and Standards and determine the suitability of alternate methods and materials as required by this chapter. Any determination made by Fire Board shall be in harmony with the intent of this chapter. Fire Board may make recommendations to Council for revisions or changes to this chapter.

Fire Board may review all Fire Department administrative regulations and policies relating to the enforcement/interpretation of the Fire Prevention Code and Standards. Fire Board may make comments and recommendations on administrative regulations and policies pertaining to fire prevention to the Fire Chief, Mayor and City Council.

Fire Board shall have the authority to review, approve or disapprove, and reinstate all fire alarm contractor and all fire suppression contractor licenses.

Fire Board shall have the authority to monitor, revoke, and suspend all fire alarm contractor, fire suppression contractor, on-site fire installer, fire hydrant technician, and installer limited licenses.

8.3.103: RULES OF PROCEDURE:

Fire Board shall promulgate rules of procedure for the conduct of their business and meetings which shall be consistent with the City of Colorado Springs Rules and Procedures of City Council.

8.3.104: MEMBER RESPONSIBILITIES:

Fire Board members shall comply with the provisions of the City Charter and the Rules and Procedures of Fire Board of Appeals.

8.3.105: INDEMNIFICATION:

Fire Board members are indemnified and held harmless for acts or omissions occurring during the performance of their duties and within the scope of their appointment except where the act or omission is willful and wanton.

8.3.106: REPORTS TO COUNCIL:

Fire Board shall annually provide reports of their activities to Council or shall provide such reports as frequently as required by specific direction of Council.

CURRENT

Article 3

FIRE BOARD OF APPEALS

8.3.101: BOARD CREATED; COMPOSITION:

A board, to be known as the Fire Board of Appeals and referred to throughout this chapter as the Fire Board, is hereby established, and shall consist of seven (7) members. One of the members shall be in the fire insurance field (fire and casualty); one member shall be a licensed architect; one member shall be a contractor with a fire suppression contractor license; one member shall be a building contractor with an A, B or C license; one member shall be an owner or representative of a large business (manufacturing or sales); one member shall be an owner or representative of a small business (manufacturing, sales or service); and one member shall be a citizen at large. The members of the Fire Board shall be appointed by the City Council. All appointments shall be for terms of three (3) years, unless to fill an unexpired vacancy. The Fire Marshal shall act as secretary ex officio.

The Fire Board shall elect a chair and vice chair each year. Minutes shall be maintained of all its meetings and shall be made a permanent record. (Ord. 84-43; Ord. 01-42)

8.3.102: AUTHORITY OF FIRE BOARD:

The Fire Board shall have the authority to make and adopt supplemental rules and regulations as may be necessary to accomplish the purpose and objective of this chapter. However, any rules and regulations, except rules and regulations governing procedures before the Fire Board and investigations by the Fire Board, shall not become effective until approved by the City Council.

The Fire Board may make reasonable interpretations of the provisions of this chapter to grant variances to the Fire Prevention Code and to determine the suitability of alternate materials and type of construction as required by this chapter. Any determination made by the Fire Board shall be in harmony with the intent of this chapter. The Fire Board may make recommendations from time to time to the City Council for revisions or changes to this chapter.

The Fire Board may review all Fire Department administrative regulations and policies relating to the enforcement/interpretation of the Fire Code and may make comments and recommendations pertaining to the regulations and policies to the Fire Chief, Mayor and City Council. (1968 Code §7-75.2(a); Ord. 78-147; 1980 Code; Ord. 84-43; Ord. 01-42; Ord. 11-19)

8.3.103: APPEAL PROCEDURES:

A. Any person aggrieved by any decision or order of the Fire Department's administration of this chapter may appeal the decision or order to the Fire Board.

1. The appeal shall be in writing signed by the person aggrieved or the person's agent or attorney and shall state briefly the grounds for the appeal.
 2. The appeal shall be filed with the secretary of the Fire Board within ten (10) days after the action or decision.
 3. The secretary of the Fire Board shall notify the appellant of the time, date and place of the hearing. At the conclusion of the hearing on appeal, the Fire Board may modify, affirm or reverse the decision or order of the Fire Department administration.
 4. All appeals shall be heard at the next regularly scheduled meeting of the Fire Board unless for good cause shown otherwise.
- B. Any person who is aggrieved by the order or decision of the Fire Board may appeal to the courts of Colorado in accord with the Colorado rules of civil procedure.
- C. All hearings on appeal shall be de novo. An appeal shall stay all proceedings in connection with the decision or order appealed from unless the Fire Marshal certifies that a stay would cause imminent hazard to life or property. (Ord. 78-147; Ord. 84-43; Ord. 97-149; Ord. 01-42)

8.3.104: LIABILITY OF FIRE BOARD:

Members of the Board acting for the City in good faith and without malice in the discharge of their duties shall not hereby render themselves personally liable, and they are hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required, or by reason of any act or omission related to the discharge of their duties. Any suit brought against a member or members of the Board, due to an act or omission performed by them in the discharge of their duties, shall be defended by the City to the final termination of the proceedings. (1968 Code §7-75.2(d); Ord. 78-147; Ord. 01-42)

DRAFT
01/10/19

CITY OF COLORADO SPRINGS
RULES AND PROCEDURES OF FIRE BOARD OF APPEALS

In accord with the authority set forth in Article 3, Fire Board of Appeals of Colorado Springs, Colorado, City Code, as amended, City of Colorado Springs Fire Board of Appeals (referenced throughout this document as the Board) hereby adopts the following Rules of Procedure.

Rules of Procedure

1. Annual Meeting – An annual meeting of the Board shall convene in January and shall include the following action items:
 - A. Election of Fire Board of Appeals Chair (the Chair) and Fire Board of Appeals Vice Chair (the Vice Chair).
 - B. Designation of meeting notification posting location (City Charter 24-6-402.2.a)
2. Absence of the Chair and the Vice Chair – In the absence of the Chair, the Vice Chair shall act as the Chair. In absence of the Chair and the Vice Chair, the Board, so long as a quorum is present, shall elect, by a majority vote of those present, a temporary chair to act until the Chair or the Vice Chair is present or the meeting adjourns.
3. Vacancy – A vacancy in the office of chair shall be filled automatically by the Vice Chair and a new vice chair shall be elected at the next regular meeting of the Board by majority board vote. A vacancy in the office of vice chair shall be filled at the next regular meeting of the Board by majority board vote. The elected chair or vice chair shall serve until the next annual meeting.
4. Attendance –
 - A. General – The Board members are expected to attend meetings and remain in attendance during each meeting. No member may be excused from attending a meeting without permission from the Chair. Members with good cause shall be excused from attending a meeting. No member shall leave a meeting while in session without advising the presiding chair.
 - B. Procedure for Excusal – The Board members shall notify the Secretary or the Secretary's designee of a pending absence no later than 5:00 p.m. the day prior to the meeting. Failure to comply, except in cases of emergency, shall result in an unexcused absence. The Secretary or the Secretary's designee shall inform the Chair of all notifications of absence after the meeting is called to order. Members not complying with Attendance procedures shall be considered unexcused unless the Chair calls for and receives a majority vote of the Board to excuse.
 - C. Vacation of Office – Any member who without good cause fails to attend twenty-five percent (25%) or more of the regularly scheduled meetings in any twelve (12) month period may be recommended to City Council for removal as a member of the Board for the remainder of the term, and a new member may be appointed by City Council to fill the vacancy. (City Code § 1.2.905.)
5. Appeals from the Decision of the Chair – The Chair shall preserve decorum and decide all questions of order, subject to appeal to the Board. In case of an appeal from a ruling of the Chair, the question shall be: "Shall the decision of the Chair stand as the decision of Fire Board?" If a member violates the rules of the Board, the Chair shall call such member to order, in which case the member shall be silent, unless permitted to explain.

6. Secretary – The Fire Marshal shall keep all records of the Board and shall act as secretary ex-officio to the Board. The Secretary, subject to the direction of the Board, shall prepare all correspondence; receive and file all matters referred to the Board; distribute all notices required by law; and prepare and keep agendas, files, and minutes of Fire Board of Appeals' proceedings.
7. Meetings –
 - A. All meetings shall be open to the public in accord with Open Meetings Law.
 - B. Regular Meeting – A regular meeting of the Board shall be held each month at such time and place as the Chair shall designate, unless otherwise cancelled by the Secretary for lack of items or lack of quorum, or as otherwise canceled by the Board or as otherwise provided in these Rules of Procedure.
 - i. Any regular meeting may be adjourned and reconvened at a time and place determined by a majority vote of the present Members.
 - C. Special Meeting – A special meeting may be called at any time by the Chair, or in the Chair's absence by the Vice Chair, provided that notice of the meeting, including an agenda of all items to be considered, shall be provided to each Member prior to the meeting and posted in accord with Open Meetings Law with a minimum twenty-four (24) hour notice.
 - D. Quorum – A majority Member composition shall constitute a quorum for the transaction of business. Whenever a quorum is not present at a regular or special meeting no action shall be taken except to adjourn the meeting to another time.
 - E. Weather Cancellations – Regular and special meetings shall automatically cancel without further action or notice of the Board or the Secretary when School District 11 declares either a cancellation or a two hour delay for any District 11 school. All matters on the cancelled meeting's agenda shall automatically move to the next regular meeting unless a special meeting is called by the Chair to hear those matters.
 - F. Voting – The Board shall act by motion or resolution on agenda items listed as Administrative. No vote may be held on an item unless a quorum exists and is present. All Members present during consideration of an Administrative item, including the Chair, shall vote on the item. Each Member shall vote either for (aye) or against (nay) the motion or resolution. All votes shall be by voice "aye" or "nay". If a voice vote is not clear the Chair may recall the vote by show of hands. After the Chair determines the voting outcome of each Administrative Appeal item, each member of the Board shall verbally substantiate their voting decision in an order requested by the Chair.
 - G. Conflicts of Interest – Members of the Board are prohibited from engaging in any behavior that constitutes a conflict of interest as set forth in the City Code of Ethics. A member with a prohibited conflict of interest shall disclose the prohibited interest to the presiding chair in the manner described by the City Attorney during the Board's annual ethics education presentation. The conflicted

member shall recuse himself or herself by physically leave the meeting room until the matter is concluded.

- H. Record of Meeting – A record of each meeting shall be kept by electronic means. The Secretary shall prepare minutes of each meeting for approval by the Board. Minutes may be summary minutes; however, each motion made shall be recorded verbatim. The verbatim electronic audio record of each meeting or work session shall be maintained by the Secretary for a minimum of four (4) years or as otherwise required by law, whichever is longer.

8. Order of Business – The sequence of regular scheduled or special meetings shall be:

- A. Call to Order – The Chair shall call the meeting to order.
- B. Changes/Postponements to Agenda – The Chair shall request that the Board present changes and/or postponements to the agenda. The Board shall hear and act upon the proposed changes or postponements.
- C. Approval of Minutes – The Board shall review and act upon the preceding meeting's minutes.
- D. Contractor Licensing – The Board shall hear and act upon fire alarm contractor and fire suppression contractor licensing.
- E. Hearing – The Board shall hear and act upon items which are requests and/or appeals.
- F. New Business – The Board shall receive training, announcements, discussion items, etc.
- G. Adjourn – Upon completion of all items on the agenda, the Chair shall declare the meeting adjourned.

9. Hearing Procedures – The sequence of hearing the order of business shall be as follows:

- A. Presentation by Colorado Springs Fire Department.
- B. Presentation by the applicant.
- C. At Fire Board's discretion, presentation by other interested parties.
- D. Rebuttal information by the applicant.
- E. Additional information or rebuttal from Colorado Springs Fire Department.
- F. At Fire Board's discretion, additional information from Colorado Springs Fire Department or the applicant.
- G. The Chair shall request a motion.

H. The Board shall act on the motion.

The Chair has authority to place a time limit on presentations by any person or party.

10. Application to Fire Board – An application to Fire Board shall meet the following requirements:
 - A. An application shall be on such forms as approved by the Secretary. If the Secretary determines additional information is required the applicant shall provide the information to the Board. Failure of the applicant to furnish such additional information may be grounds for dismissal of the application by the Board.
 - B. An application for review by the Board shall be filed on or before fourteen (14) days prior to the next scheduled regular meeting. The Secretary may accept applications up to forty-eight (48) hours prior to the date of a scheduled regular meeting if the Board would impose an extreme hardship on the applicant, Open Meeting Law requirements shall be met, and the Board is presented all necessary information.
 - C. Agenda items to be considered by the Board shall be emailed, delivered, or made available electronically to members and applicants one (1) week prior to the regularly scheduled board meeting. Hardship items that are in accordance with 11.B or special meeting items are exceptions.
11. Jurisdiction of the Board – The Board shall have jurisdiction as set forth by City Code or otherwise directed by City Council by ordinance, resolution or motion.
12. Procedure in the Absence of Rule – In the absence of a rule to govern a point of procedure, “Parliamentary Law for Non-profit Organizations” shall govern the Board’s actions.
13. Amendment of Rules and Procedures of Fire Board of Appeals – These rules and procedures may be amended by majority vote of the Board at any regular or special meeting.
14. Repeal of prior Bylaws or Rules of Procedure - Any Bylaws or Rules of Procedure previously approved by Fire Board are deemed repealed and of no further effect.

Adopted by Fire Board vote this _____ day of _____,
2019

Roger Wallace, Chair

Existing

RULES OF PROCEDURE OF THE FIRE BOARD OF APPEALS OF THE CITY OF COLORADO SPRINGS

In accord with the authority set forth in Section 8.3.102 of the Code of the City of Colorado Springs 2001, as amended, the Fire Board of Appeals of the City of Colorado Springs ("the Board") hereby adopts the following Rules of Procedure.

Rules of Procedure

1. Annual Meeting – The annual meeting of the Board shall be in January of each year at the call of the Chair.
2. Election of Chair and Vice Chair – At the annual meeting, a Chair and Vice Chair shall be elected. Election may be by written ballot or by voice vote at the Board's option.
3. Absence of Chair and Vice Chair – In the case of absence of the Chair, the Vice Chair shall act as Chair. In the case of absence of both the Chair and Vice Chair, the member of the Board, so long as a quorum is present, shall elect by a majority vote of those present a temporary Chair to act until the Chair or Vice Chair Appears.
4. Vacancy – A vacancy in the office of Chair shall be filled automatically by the Vice Chair and a new Vice Chair shall be elected at the next regular meeting of the Board by Board vote. A vacancy in the office of Vice Chair shall be filled at the next regular meeting of the Board by Board vote. The Chair or Vice Chair so elected shall serve until the next annual meeting.
5. Appeals from the Decision of the Chair – The Chair shall preside over all regular and special meetings of the Board and shall preserve decorum and decide all questions of order, subject to appeal to the Board.
6. Secretary – The Fire Marshal shall keep all records of the Board and shall act as secretary ex-officio to the Board. The Secretary, subject to the direction of the Board, shall prepare all correspondence of the Board, receive and file all matters referred to the Board; send out all notices required by law; prepare and keep agendas, files and minutes of the Board's proceedings.
7. Meetings –
 - A. A regular meeting of the Board shall be held each month at such time and place as the Chair shall designate, unless otherwise cancelled by the Secretary for lack of items or lack of quorum, or as otherwise canceled by the Board or as otherwise provided in these Rules of Procedure.
 - B. Any regular meeting may be adjourned and reconvened at a time and place determined by a majority of the members present.
 - C. Special meetings may be called any time by the Chair or in the Chair's absence by the Vice Chair or by any other members so designed by the Chair, provided that notice of the meeting including an agenda of all items to be considered shall be

provided to each member prior to the meeting and posted in accord with the applicable portions of the Colorado Open Meetings Act.

- D. A majority of the Board shall constitute a quorum for the transaction of business. Whenever a quorum is not present at a regular or special meeting, no action shall be taken except to adjourn the meeting to another time.
 - E. The Chair may from time to time call work sessions for the purpose of receiving information, hearing presentations and discussing information; provided, however, that no official or formal action may be taken at such meetings.
 - F. All meetings shall be open to the public in accord with the Colorado Open Records Act as applicable to City boards and as adopted by the Colorado Springs City Council.
 - G. Weather Cancellations. Regular and Special Board Meetings shall be automatically cancelled without further action or notice of the Board or Secretary when School District 11 declares either a cancellation or a two hour delay for any District 11 school. All matters on the cancelled meeting agenda shall automatically move to the next regular monthly meeting unless a special meeting is called by the Board to hear those matters.
 - H. Voting. The Board may act by Motion or Resolution. No vote may be held on an item unless a quorum of members exists and is present. All members of the Board present during consideration of an item, including the Chair, shall vote on the item. Each member present shall vote either for (yes) or against (no) the motion or resolution. Abstention is not permitted. Except as otherwise provided herein for elections, all votes shall be by voice, except that, if the voice vote is not clear, then the Chair may recall the vote by show of hands.
 - I. Conflicts of interest. Whenever a Board member has cause to believe that a matter to be voted upon would involve him or her in a conflict of interest, that member shall announce the conflict of interest, shall not participate further in the matter, and shall leave the meeting room until the matter has been concluded.
 - J. A record of each meeting or work session shall be kept by electronic means. The Secretary shall prepare minutes of each meeting or work session for approval by the Board. Minutes may be summary minutes; however, each motion made shall be recorded verbatim. The verbatim electronic record of each meeting or work session shall be maintained by the Secretary for a minimum of four (4) years or as otherwise required by law, whichever is longer.
8. Order of business. The order of business at regular Board meetings shall be:
- 1) Call to Order. The Chair shall call the Board to order.
 - 2) Approval of Minutes. The minutes of any preceding meeting shall be submitted for approval and shall be approved by a majority of vote of those present pending any corrections by members of the Board or the secretary.

- 3) Old Business. The Board shall hear and act upon those items which were postponed from previous meetings.
- 4) New Business. The Board shall hear and act upon those items which are new business.
- 5) Adjournment. Upon the completion of all items on the agenda, the Chair shall declare the meeting to be adjourned.

9. Hearing Procedures. At a hearing, the order of business shall be as follows:

- 1) Presentation by the Fire Department.
- 2) Presentation by the applicant.
- 3) At the Board's discretion, presentation by other interested parties.
- 4) Rebuttal information by the applicant.
- 5) Additional information or rebuttal from the Fire Department.
- 6) At the Board's discretion, additional information from the Fire Department or the Applicant.
- 7) The Chair may place a time limit on presentations by any person or party.

10. Application to the Board. An application to the Board shall meet the following requirements:

- A. An application shall be on such forms as the Board may approve. In the event that the secretary to the Board or the Board determines that additional information is required, this information shall be furnished to the Board by the applicant. Failure of the applicant to furnish such additional information may be grounds for dismissal of the application by the Board.
- B. An application for review by the Fire Board of Appeals shall be filed on or before fourteen (14) days prior to the next scheduled regular meeting of the Board provided that the secretary to the Board may accept applications after this date up to forty-eight (48) hours prior the date of that next scheduled regular meeting if the Board would impose an extreme hardship on the applicant and the Fire Department is able to present necessary information to the Board.
- C. Agenda items to be considered by the Board shall be mailed or delivered to the members of the Board and the applicants on or before the Friday, preceding the regularly scheduled board meeting except for items which are heard by the Board at a special meeting or work session, or are hardship items in accord with Rule 10.B.

11. Suspension of Rules. Upon a majority vote of the quorum of the Board, any rule may be suspended.
12. Jurisdiction of the Board. The Board shall have jurisdiction as set forth by the City Code or otherwise directed by City Council by ordinance, resolution or motion.
13. Procedure in the Absence of Rule. The absence of a rule to govern a point of procedure, "Parliamentary Law for Non-profit Organizations:" shall govern the Board's actions.
14. Amendment of these Rules of Procedure. These Rules of Procedure may be amended from time to time by majority vote of the Board at any regular or special meeting of the Board. Amendments shall be posted on the Agenda as action items.
15. Repeal of prior Bylaws or Rules of Procedure. Any Bylaws or Rules of Procedure previously approved by the Board are deemed repealed and of no further effect.

Adopted by Board vote this 10th day of April, 2015



Roger Wallace, Chair

APPENDIX.²¹

PART 4. OPEN MEETINGS LAW

24-6-401. Declaration of Policy. It is declared to be a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Source: Entire section amended, L. 91, p. 815, § 1, effective June 1.

Law reviews. For article, "Home Rule Municipalities and Colorado's Open Records and Meetings Laws", see 18 Colo. Law. 1125 (1989).

24-6-402. Meetings--Open to Public.

(1) For the purposes of this section:

(a) "Local public body" means any board, committee, commission, authority, or other advisory, policy-making, rule-making, or formally constituted body of any political subdivision of the state and any public or private entity to which a political subdivision, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the local public body.

(b) "Meetings" means any kind of gathering, convened to discuss public business, in person, by telephone, or by other means of communication.

(c) "Political subdivision of the state" includes, but is not limited to, any county, city, city and county, town, home rule city, home rule county, home rule city and county, school district, special district, local improvement district, special improvement district, or service district.

(d) "State public body" means any board, committee, commission, or other advisory, policy-making, rule-making, decision-making, or formally constituted body of any state agency, state authority, or the general assembly, the governing board of any state institution of higher education including the regents of the University of Colorado, and any public or private entity to which the state, or an official thereof, has delegated a governmental decision-making function but does not include persons on the administrative staff of the state public body.

(2)(a) All meetings of two or more members of any state public body at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(b) All meetings of a quorum or three or more members of any local public body, whichever is fewer, at which any public business is discussed or at which any formal action may be taken are declared to be public meetings open to the public at all times.

(c) Any meetings at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. In addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place with the boundaries of the local public body no less than twenty-four hours prior to the holding of the meeting. The public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year. The posting shall include specific agenda information where

possible.

(d)(I) Minutes of any meeting of a state public body shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (3) of this section is held shall reflect the general topic of the discussion at the executive session.

(II) Minutes of any meeting of a local public body at which the adoption of any proposed policy, position, resolution, rule, regulation, or formal action occurs or could occur shall be taken and promptly recorded, and such records shall be open to public inspection. The minutes of a meeting during which an executive session authorized under subsection (4) of this section is held shall reflect the general topic of the discussion at the executive session.

(e) This part 4 does not apply to any chance meeting or social gathering at which discussion of public business is not the central purpose.

(f) The provisions of paragraph (c) of this subsection (2) shall not be construed to apply to the day-to-day oversight of property or supervision of employees by county commissioners. Except as set forth in this paragraph (f), the provisions of this paragraph (f) shall not be interpreted to alter any requirements of paragraph (c) of this subsection (2).



https://frc texas.com/content/documentation/ER_0478_11062018.pdf

https://frc texas.com/content/documentation/10%20CSFM%20Listing%206-2019_08012018.pdf

https://frc texas.com/content/documentation/FXLumGrd%20Green%20Guard%20Gold%20Certificate%2010-26-18_06262018.pdf

https://frc texas.com/content/documentation/FXLumGrd%20Green%20Guard%20Gold%20Certificate%2010-26-18_06262018.pdf

FX Lumber Guard XT: fire retardant coatings for wood: Species like White Wood, SPF, Pine and Doug Fir these species of wood are not rot resistant, if you are using one these species that starts to rot or decay, retreating or maintenance will have to be done, power washing or cleaning the material is required for retreating. A wood sealer or paint of some type should be used to protect the wood from rotting, we recommend using a non wax based wood sealer, waterproofing sealer, stain sealer or paint.

Natural rot resistant species of wood are cedar, redwood and oak these species should not require a sealer or top coat unless there is heavy traffic on the material (decking or porch).

PRODUCT DOCUMENTATION DOWNLOADS



https://frc texas.com/content/documentation/FX%20LumGrd%20XT%20SDS_12122017.pdf



https://frc texas.com/content/documentation/IT_FX_LumGrdXT_ASTM_E2768_SPF.pdf

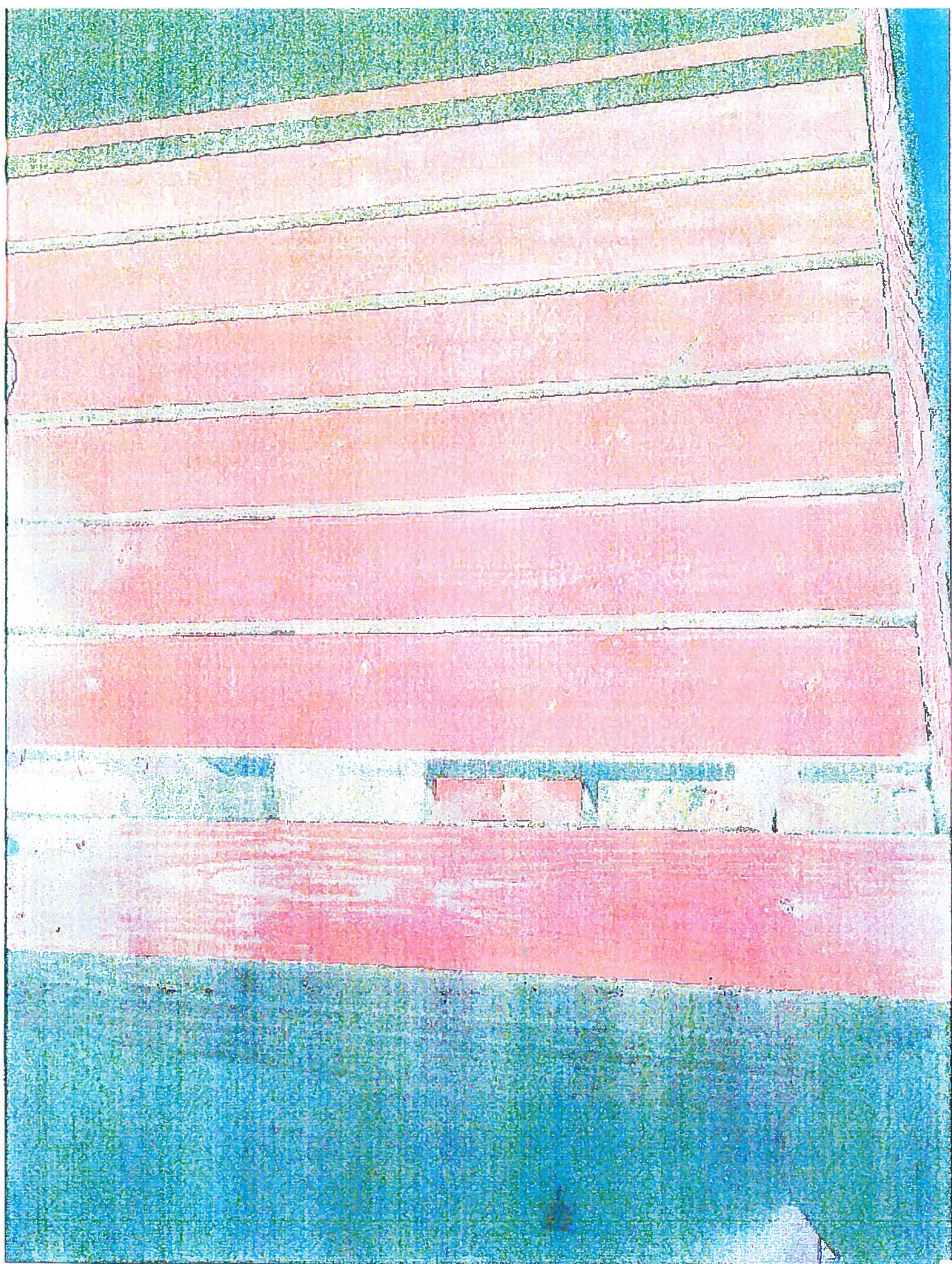


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https://frc texas.com/content/documentation/QAI_FX_LumbGrdXT_ASTM_E119_CAN-ULC_S101.pdf

https://frc texas.com/content/documentation/ASTM%20E2768%20OSB%20Test%20Report%20F-15%20S-30_08012018.pdf



/ithee, Doreen E

om: Jan Zabinski <jezps@earthlink.net>
nt: Friday, December 28, 2018 12:17 PM
o: Withee, Doreen E
bjeet: Re: FW: Fire Board of Appeals Application - 1622 Cheyenne Bl

AUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!

ee,

ank you for your assistant this morning. I don't know if you need this information but the balcony is 8'x16'-8" and there are 5 stairs with a 4'x4' landing. Please let me know if you think it would be helpful to forward the pictures.

anks,
n Zabinski

--Original Message-----
om: "Withee, Doreen E" <DWithee@springsgov.com>
nt: Dec 28, 2018 11:28 AM
o: "jezps@earthlink.net" <jezps@earthlink.net>
bjeet: FW: Fire Board of Appeals Application - 1622 Cheyenne Bl

A copy of the electronic version I have forwarded to the Secretary of the Fire Board.

Doreen E. Withee, PE

Fire Protection Engineer II
Colorado Springs Fire Department
2880 International Circle, Suite 200-7
Colorado Springs, CO 80910
TEL (719) 385-7361
dwithee@springsgov.com

Providing the highest quality problem solving and emergency service to our community since 1894.

-----Original Message-----
om: Withee, Doreen E
nt: Friday, December 28, 2018 11:18 AM
o: Snow, Katha M.
bjeet: Fire Board of Appeals Application - 1622 Cheyenne Bl
mportance: High

Katha - please see the attached application to the Fire Board of Appeals.

